UNITED STATES PATENT AND TRADEMARK OFFICE

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/814,831	03/31/2004	Dan Zhang	CS23995RL	6501

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EXAMINER
HERRERA, DIEGO D

ART UNIT	PAPER NUMBER
2617	

NOTIFICATION DATE	DELIVERY MODE
12/24/2008	ELECTRONIC

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

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	Application No.	Applicant(s)
Office Action Summary	10/814,831	ZHANG ET AL.
	Examiner	Art Unit	
	DIEGO HERRERA	2617	

-- *The MAILING DATE of this communication appears on the cover sheet with the correspondence address* --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE <u>3</u> MONTH(S) OR THIRTY (30) DAYS,
WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.
- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed
  after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
  Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any
  earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *12 September 2008*.

2a)☐ This action is **FINAL**.   2b)☒ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is
closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1-18* is/are pending in the application.

    4a) Of the above claim(s) *14* is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *1-13, and 15-18* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

    Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

    Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

    a)☐ All b)☐ Some * c)☐ None of:

        1.☐ Certified copies of the priority documents have been received.

        2.☐ Certified copies of the priority documents have been received in Application No. _____.

        3.☐ Copies of the certified copies of the priority documents have been received in this National Stage
application from the International Bureau (PCT Rule 17.2(a)).

    * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1)☒ Notice of References Cited (PTO-892)

2)☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)

3)☐ Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____.

4)☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____

5)☐ Notice of Informal Patent Application

6)☐ Other: _____.

DETAILED ACTION

Response to Arguments

Applicant's arguments, see applicant arguments/remarks made in an amendment, filed 9/12/2008, with respect to the rejection(s) of claim(s) 1-13 and 15-18 under 35 U.S.C. 102(e) as being anticipated by Misra et al. have been fully considered and are persuasive. Therefore, the rejection has been withdrawn. However, upon further consideration, a new ground(s) of rejection is made in view of Fan (US 20030079021 A1).

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1.   Determining the scope and contents of the prior art.
2.   Ascertaining the differences between the prior art and the claims at issue.
3.   Resolving the level of ordinary skill in the pertinent art.
4.   Considering objective evidence present in the application indicating obviousness or nonobviousness.

This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein

were made absent any evidence to the contrary. Applicant is advised of the obligation

under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was

not commonly owned at the time a later invention was made in order for the examiner to

consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g)

prior art under 35 U.S.C. 103(a).

Claims 1-13, and 15-18 are rejected under 35 U.S.C. 103(a) as being

unpatentable over Misra et al. (US 20040022209A1), and in view of Fan (US

20030079021 A1).

Regarding claim 1. Misra et al. discloses a method in a wireless communications

device (¶: 8, Misra et al. teaches mobile system and wireless communications network),

the method comprising: pre-empting an active packet session with an event (¶: 3, 10,

18-19; abstract, title, Misra et al. teaches packet session related with an event);

suspending operation of a dormancy timer initiated upon pre-emption of the active

packet session (¶: 20, Misra et al. teaches suspending packet data session when MSC

sends a Prevent Race Condition message to the mobile);

re-starting the suspended dormancy timer upon completion of either a service or

application associated with the event pre-empting the active packet session (¶: 21,

Misra et al. teaches mobile devices receiving MSC message to start record message

from PDSN indicating to start of a packet data call, hence, continuing the packet data

session to mobile device). However, Misra et al. does not discloses suspending

dormancy timer that would be initiated after pre-emption of the packet session nor does

Misra et al. discloses initiating the suspended dormancy timer upon completion of either

a service or application associated with the event pre-empting the active packet session, nonetheless, the examiner maintains that this was well known in the art at the time the invention of Misra et al. was made and taught by Fan (see fig. 3 and 4 ¶: 25-27, Fan teaches having a counter for timer expiry wherein the "time of day timer" expires and the call server counters restarts counting the accounting data for the IP session already started, hence, when the IP session encounters an event or activity the AAA server stops it resets timers involve and restarts when event or activity of the IP session and when the event or activity or application or interrupt is done). Therefore, it would have been obvious to a person of ordinary skill in the art at the time the invention was made to specifically include timer and counters and control messages as to the activity state when IP sessions are pre-empted by another activity or application, as taught by Fan for the purposes of improving traffic for accounting messages (abstract, title, ¶: 14). One of ordinary skill in the art would be motivated to include the teachings of Fan to that of Misra et al. in order to determined billing rates by accounting for data transmitted in the first IP session period and accounting for the data transmitted in the second IP session period wherein between the two periods an activity parameters was triggered, having the AAA server carrying out protocol.

Regarding claim 7. Misra et al. discloses a method in a wireless communications device (¶: 8, Misra et al. teaches mobile system and wireless communications network), the method comprising: pre-empting an active packet session with an event (¶: 3, 10, 18-19; abstract, title, Misra et al. teaches packet session related with an event); suspending initiation of a dormancy timer that would otherwise be initiated after pre-

emption of the packet session (¶: 20, Misra et al. teaches suspending packet data

session when MSC sends a Prevent Race Condition message to the mobile); initiating

the suspended dormancy timer upon completion of either a service or application

associated with the event pre-empting the active packet session (¶: 21, Misra et al.

teaches mobile devices receiving MSC message to start record message from PDSN

indicating to start of a packet data call, hence, continuing the packet data session to

mobile device). However, Misra et al. does not discloses suspending dormancy timer

that would be initiated after pre-emption of the packet session nor does Misra et al.

discloses initiating the suspended dormancy timer upon completion of either a service

or application associated with the event pre-empting the active packet session,

nonetheless, the examiner maintains that this was well known in the art at the time the

invention of Misra et al. was made and taught by Fan (see fig. 3 and 4 ¶: 25-27, Fan

teaches having a counter for timer expiry wherein the "time of day timer" expires and the

call server counters restarts counting the accounting data for the IP session already

started, hence, when the IP session encounters an event or activity the AAA server

stops it resets timers involve and restarts when event or activity of the IP session and

when the event or activity or application or interrupt is done). Therefore, it would have

been obvious to a person of ordinary skill in the art at the time the invention was made

to specifically include timer and counters and control messages as to the activity state

when IP sessions are pre-empted by another activity or application, as taught by Fan for

the purposes of improving traffic for accounting messages (abstract, title, ¶: 14). One of

ordinary skill in the art would be motivated to include the teachings of Fan to that of

Misra et al. in order to determined billing rates by accounting for data transmitted in the

first IP session period and accounting for the data transmitted in the second IP session

period wherein between the two periods an activity parameters was triggered, having

the AAA server carrying out protocol.

Regarding claim 13. Misra et al. teaches a method in a wireless communications

device (¶: 8, Misra et al. teaches mobile system and wireless communications network),

the method comprising:

receiving a network control message (¶: 18-19, Misra et al. teaches mobile station

receiving pages from MSC); suspending an active packet session of the wireless

communication device in response to receiving the network control message (¶: 20,

Misra et al. teaches suspending packet data session when MSC sends a Prevent Race

Condition message to the mobile); suspending a dormancy timer after receiving the

network control message (¶: 21, Misra et al. teaches mobile devices receiving MSC

message to start record message from PDSN indicating to start of a packet data call,

hence, continuing the packet data session to mobile device). However, Misra et al. does

not discloses suspending dormancy timer that would be initiated after pre-emption of the

packet session nor does Misra et al. discloses initiating the suspended dormancy timer

upon completion of either a service or application associated with the event pre-empting

the active packet session, nonetheless, the examiner maintains that this was well

known in the art at the time the invention of Misra et al. was made and taught by Fan

(see fig. 3 and 4 ¶: 25-27, Fan teaches having a counter for timer expiry wherein the

"time of day timer" expires and the call server counters restarts counting the accounting

data for the IP session already started, hence, when the IP session encounters an event

or activity the AAA server stops it resets timers involve and restarts when event or

activity of the IP session and when the event or activity or application or interrupt is

done). Therefore, it would have been obvious to a person of ordinary skill in the art at

the time the invention was made to specifically include timer and counters and control

messages as to the activity state when IP sessions are pre-empted by another activity

or application, as taught by Fan for the purposes of improving traffic for accounting

messages (abstract, title, ¶: 14). One of ordinary skill in the art would be motivated to

include the teachings of Fan to that of Misra et al. in order to determined billing rates by

accounting for data transmitted in the first IP session period and accounting for the data

transmitted in the second IP session period wherein between the two periods an activity

parameters was triggered, having the AAA server carrying out protocol.

Consider claim 2. The method of Claim 1, resuming the pre-empted packet session

upon expiration of the dormancy timer after re-starting the dormancy timer (¶: 21, Misra

et al. teaches restarting packet session).

Consider claim 3. The method of Claim 1, receiving a network control message with

dormancy timer information before suspending the dormancy timer (¶: 20, Misra et al.

teaches predetermined period of time being indicated in information sent to the mobile

device from MSC).

Consider claim 4. The method of Claim 3, starting the dormancy timer after receiving

the network control message(¶: 20, Misra et al. teaches predetermined period of time

being indicated in information sent to the mobile device from MSC).

Consider claim 5. The method of Claim 1, pre-empting the active packet session with a pending voice call (abstract, title, ¶: 10-11, 15, 20; Misra et al. teaches having a voice call precedence over packet data method);

re-starting the suspended dormancy timer upon completion of the voice call associated with pre-empting the packet session (¶: 21, Misra et al. teaches restarting packet session).

Consider claim 6. The method of Claim 5, receiving a page, conducting the voice call after receiving the page (¶: 20, Misra et al. teaches decision making of starting voice call by user and/or system determined by predetermined settings).

Consider claim 8. The method of Claim 7, resuming the pre-empted packet session upon expiration of the dormancy timer initiated upon completion of the service or application associated with the event pre-empting the active packet session (¶: 21, Misra et al. teaches restarting packet session).

Consider claim 9. The method of Claim 7, receiving a network control message with dormancy timer information before suspending the dormancy timer (¶: 20, Misra et al. teaches predetermined period of time being indicated in information sent to the mobile device from MSC).

Consider claim 10. The method of Claim 9, starting the dormancy timer after receiving the network control message (¶: 20, Misra et al. teaches suspending packet data session when MSC sends a Prevent Race Condition message to the mobile).

Consider claim 11. The method of Claim 7, pre-empting the active packet session with a pending voice call (abstract); re-starting the suspended dormancy timer upon

completion of the voice call associated with pre-empting the packet session(¶: 21, Misra et al. teaches restarting packet session).

Consider claim 12. The method of Claim 11, receiving a page, conducting the voice call after receiving the page (abstract, ¶: 20, Misra et al. teaches suspending packet data session when MSC sends a Prevent Race Condition message to the mobile, hence, starting voice call session, while suspending data packet session).

Consider claim 15. The method of Claim 13, receiving a page after receiving the network control message, conducting a voice call after receiving the page, and resuming the suspended dormancy timer after completing the voice call (¶: 21, Misra et al. teaches restarting packet session after ending voice call).

Consider claim 16. The method of Claim 13, suspending the dormancy timer includes suspending initiation of the dormancy timer otherwise started upon suspending the active packet session (¶: 20, Misra et al. teaches suspending packet data session when MSC sends a Prevent Race Condition message to the mobile).

Consider claim 17. The method of Claim 13, suspending the dormancy timer includes suspending operation of a dormancy timer after the dormancy timer has started (¶: 20, Misra et al. teaches suspending packet data session when MSC sends a Prevent Race Condition message to the mobile device).

Consider claim 18. The method of Claim 13, starting the dormancy timer upon completion of an event precipitating the suspension of the active packet session (¶: 20, Misra et al. teaches suspending packet data session when MSC sends a Prevent Race Condition message to the mobile device).

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to DIEGO HERRERA whose telephone number is (571)272-0907. The examiner can normally be reached on Monday-Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Lester Kincaid can be reached on (571) 272-7922. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Diego Herrera/
Examiner, Art Unit 2617

/Lester Kincaid/
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